IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

WP(C).No. 6211 of 2007(M)

PETITIONER:

RENJITH.N.K., JUNIOR SCIENTIFIC OFFICER, REGIONAL CHEMICAL EXAMINER'S LABORATORY, KOZHIKODE.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, DEPARTMENT OF HOME AFFAIRS, SECRETARIAT, THIRUVANANTHAPURAM.

2. CHIEF CHEMICAL EXAMINER TO GOVERNMENT, CHEMICAL EXAMINER'S LABORATORY, THIRUVANANTHAPURAM.

3. M.V.SIVANKUTTY, ASSISTANT CHEMICAL EXAMINER, REGIONAL CHEMICAL EXAMINER'S LABORATORY, KAKKANAD, ERNAKULAM.

4. K.D.ANIE, JUNIOR SCIENTIFIC OFFICER, REGIONAL CHEMICAL EXAMINER'S LABORATORY, KAKKANAD, ERNAKULAM.

5. SALI K.CHERIAN, JUNIOR SCIENTIFIC OFFICER, REGIONAL CHEMICAL EXAMINER'S LABORATORY, KAKKANAD, ERNAKULAM.

6. K.T.SASI, JUNIOR SCIENTIFIC OFFICER, REGIONAL CHEMICAL EXAMINER'S LABORATORY, KAKKANAD, ERNAKULAM.

7. N.ABDUL VAHID, JUNIOR SCIENTIFIC OFFICER, CHEMICAL EXAMINER'S LABORATORY, THIRUVANANTHAPURAM-35.

8. C.RAJAN PILLAI, JUNIOR SCIENTIFIC OFFICER, CHEMICAL EXAMINER'S LABORATORY, THIRUVANANTHAPURAM-35.

9. A.RAJASREE, JUNIOR SCIENTIFIC OFFICER, CHEMICAL EXAMINER'S LABORATORY, THIRUVANANTHAPURAM-35.

10. M.CHITHRA, JUNIOR SCIENTIFIC OFFICER, CHEMICAL EXAMINER'S LABORATORY, THIRUVANANTHAPURAM-35.

11. M.LILA, JUNIOR SCIENTIFIC OFFICER, CHEMICAL EXAMINER'S LABORATORY, THIRUVANANTHAPURAM-35.

12. P.G.ASOKUMAR, JUNIOR SCIENTIFIC OFFICER, CHEMICAL EXAMINER'S LABORATORY, THIRUVANANTHAPURAM-35.

13. RAJALAKSHMI.R., JUNIOR SCIENTIFIC OFFICER, CHEMICAL EXAMINER'S LABORATORY, ERNAKULAM, KAKKANAD, ERNAKULAM DIST.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.6211 of 2007

Dated this the 23rd day of February, 2007

JUDGMENT

The petitioner belongs to the cadre of Junior Scientific Officer in the Regional Chemical Examiner's Laboratory, Kozhikode. He filed a representation before the second respondent complaining that the rank and seniority assigned to him in the final seniority list of Junior Scientific Officers, as on 1.7.1998, as per Order dated 3.2.1999, was not correct and that the same requires consideration. The objection raised by the petitioner against the seniority list shows that respondents 3 to 13 have been assigned higher rank and seniority in the above list. The request of the petitioner was turned down by the second respondent. Feeling aggrieved, he preferred representation dated 14.8.2006 before the first respondent Government under Rule 27B of KS&SSR. Complaining about the delay on the part of the first respondent in disposing of Rule 27B

representation, he had approached this Court.

2. The petitioner had filed not only a Rule 27B application, but also another application to condone the delay of 7 years in preferring that representation before the Government. This Court disposed of that W.P.(C) as per Ext.P10 judgment dated 17.8.2006. The operative part of Ext.P10 judgment reads as follows:

> Respondent No.1 shall consider Ext.P9 application for condonation of delay before considering the merits of the contentions in Ext.P8. Six persons against whom reliefs are sought in Ext.P8 have got the right to oppose the application for condoning delay as prayed for in Ext.P9. Those persons shall be issued notice and the petitioners as well as the objectors should be heard before passing orders on Ext.P9. If the delay is condoned Ext.P8 shall be taken up for consideration, and orders passed on merit. Affected persons shall be heard along with the petitioner. This shall be done within a period of four months on the petitioner producing a copy of the judgment."

Pursuant to the directions issued as above, the Government issued notice to the petitioner and respondents 3 to 13. They

were afforded due opportunity of being heard. The party respondents mainly raised contentions against the delay on the part of the petitioner in challenging the seniority list issued in 1999 and filing Rule 27B representation in 2006. According to them, there was no sufficient cause for the petitioner to wait for a period of six or seven years to challenge the decision of the second respondent. The petitioner contended that the delay was due to the fact that he was not conversant with the relevant facts, developments and the rules and orders and was not in a position to point out the errors happened in assigning seniority to him in the final seniority list of Junior Scientific Officers. The party respondents pointed out that the attitude of the petitioner was one of indifference throughout. According to them, the petitioner did not raise any objection when the provisional seniority list was published. The final seniority list happened to be published by the second respondent taking into consideration the objections raised by those who felt aggrieved and had responded to the opportunity given to them to raise objections against the provisional list. The respondents would submit that

unsettling the final seniority list after a long lapse of time would invite unnecessary complications. They are entitled to sit back and claim that matters which have been settled shall not be unsettled after long lapse of time.

3. Government, after considering the rival contentions, came to the conclusion that the application for condoning the delay was liable to be rejected. Accordingly, Ext.P13 order has been passed rejecting the application for condonation of delay and in that background rejected Rule 27B representation also, without examining the merits of the contentions.

4. Counsel for the petitioner submits that Ext.P13 is liable to be set aside. According to him, there existed sufficient reason for the petitioner not to object to the final seniority list within the time granted.

5. I am not convinced that the petitioner is justified in challenging the order passed by the Government rejecting his application for condonation of delay. Government have taken into account, among other, the fact that one Mr.Aboobacker, who was a colleague of the petitioner in the same office, had

raised objections in time against the seniority list circulated among the staff but the petitioner failed to do so. The petitioner cannot pretend ignorance and challenged the seniority list according to his whims and fancies. Dismissal of his petition is the price for his indifference. Settled matters shall not be reopened unless strong and cogent reasons exist. Government have correctly dismissed the application for condoning the delay.

5. The writ petition is devoid of merit, and therefore, dismissed. I make it clear that whatever rights or benefits the petitioner is entitled to get, based on the orders, if any, passed by the second respondent will not be affected by the dismissal of this writ petition.

K.K.DENESAN, JUDGE

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